



November 19, 1999

Ms. Joni M. Vollman
Assistant General Counsel
Harris County District Attorney's Office
District Attorney's Building
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR99-3332

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 130853.

The Harris County District Attorney's Office (the "district attorney") received a request for the state's files in two specified cases. You state that you have released certain documents to the requestor. You claim that the other requested information is excepted from public disclosure pursuant to sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and have reviewed the documents you submitted.

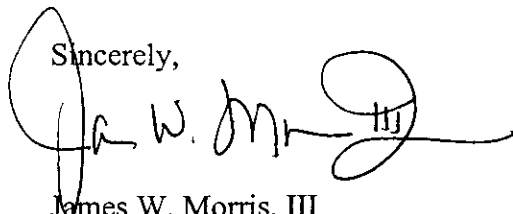
You assert that the documents you submitted to this office as Exhibit A constitute attorney "work product" that is excepted from public disclosure pursuant to section 552.108. Section 552.108(a)(3) provides that information is excepted from public disclosure if it is information that either (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation or (B) reflects the mental impressions or legal reasoning of an attorney representing the state. You describe the contents of Exhibit A as being hand-written and typed notes of prosecutors and their investigators, inter-office memoranda, the D.I.M.S. sheet, and the cover folders of prosecutors' files containing their handwritten notes. Assuming that these documents were created either by an attorney representing the state or by an individual working under the direction of such an attorney, we agree that the district attorney may withhold the documents contained in Exhibit A pursuant to section 552.108(a)(3).

You claim that the documents contained in Exhibit B are excepted from public disclosure pursuant to section 552.101 of the Government Code, which protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."

You state that Exhibit B consists of criminal history record information ("CHRI"). We agree that the district attorney must withhold, pursuant to statutory law, all CHRI obtained from the National Crime Information Center ("NCIC") or the Texas Crime Information Center ("TCIC"). The dissemination of CHRI obtained from the NCIC network is limited by federal law. *See* 28 C.F.R. § 20.1; Open Records Decision No. 565 at 10-12 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI that it generates. Open Records Decision No. 565 at 10-12 (1990). Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. Gov't Code § 411.089(b)(1). Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. Furthermore, any CHRI obtained from the Texas Department of Public Safety or any other criminal justice agency must be withheld as provided by Government Code chapter 411, subchapter F. Therefore, any criminal history record information obtained from the NCIC or the TCIC must be withheld pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "J. W. Morris, III", with a large, stylized flourish extending from the end of the signature.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cwt

Ref: ID# 130853

Encl. Submitted documents

cc: Mr. Ken J. McLean
Attorney at Law
1900 North Loop West, Suite 500
Houston, Texas 77018-8120
(w/o enclosures)